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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Fiftieth session

SUMMARY RECORD OF THE 1199th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 12 March 1997, at 10 a.m.

Chairman: Mr. BANTON

CONTENTS

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (continued)

Tenth, eleventh, twelfth, thirteenth and fourteenth periodic reports of Pakistan (continued)

ORGANIZATIONAL AND OTHER MATTERS (continued)

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The meeting was called to order at 10.05 a.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 5) (continued)

Tenth, eleventh, twelfth, thirteenth and fourteenth periodic reports of Pakistan (CERD/299/Add.6) (continued)

1. At the invitation of the Chairman, the members of the delegation of Pakistan resumed their seats at the Committee table.

2. Mrs. SADIQ ALI asked the Pakistani delegation whether the advent of a new Government had been accompanied by any possibility of reconciliation between the majority of the population of Pakistan and the country's largest minority, the Mohajirs, Muslims who had emigrated to Pakistan after the partition of India. The latter had called for the appointment of a United Nations rapporteur to investigate the systematic and persistent discrimination to which they were being subjected. Did the Pakistani Government plan to take measures with regard to the situation of persecuted minorities, in particular the Ahmadis, Christians and Hindus, in accordance with article 7 of the Convention? She noted that young girls, most of them from families belonging to the Christian and Kalash communities, had reportedly been forced to convert to Islam. Furthermore, the Ahmadis, concerning whose situation the Sub-Commission on Prevention of Discrimination and Protection of Minorities had expressed "grave concern" in August 1985, had been subjected to religious persecution for some 20 years. Did the Government plan to take steps to put an end to the practice of sentencing to death men and women accused of adultery? What was the situation with regard to the legislation on blasphemy, whose repeal had been proposed by the National Commission for Minorities?

3. She requested further information on the sensitive question of the repatriation of the Biharis, an Urdu-speaking people currently living in refugee camps in Bangladesh. She also requested that, in its next report, the Pakistani delegation should furnish social indicators on the education, training, health and housing of minorities, in accordance with the provisions of article 5 of the Convention. With regard to article 5 (a), she asked whether the neediest citizens were entitled to legal aid. She expressed concern at the failure to respect the rights set forth in article 5 (b) - because of the punishments called for under Islamic law, (c) and (d) (vii) and (viii), and at the Government's plan to include the bearer's religion on national identity cards. Might that not give rise to a hierarchical classification of citizens?

4. The CHAIRMAN informed Mrs. Sadiq Ali that at the previous meeting, when she had not been present, the members of the Committee had had a brief exchange of views concerning the implementation of article 1, paragraph 1, of the Convention in the case of Pakistan. The fact that certain groups characterized by their ethnic origin were sometimes also characterized by other factors, such as religion, posed a problem. He was, however, confident that Mr. Garvalov, the Country Rapporteur, would include in the Committee's concluding observations only matters which fell strictly within the scope of the Convention.

5. Mr. ABOUL-NASR, speaking on a point of order, said he had observed, at the previous meeting, that the Committee should deal with religious matters only if they were associated with racial discrimination. He regretted that Mrs. Sadiq Ali had gone so far as to criticize his religion, Islam, and the very nature of all Islamic law. He feared that the comments made would merely fuel the campaign against Islam that was currently being waged throughout the world.

6. Mr. AKRAM (Pakistan) said that his Government had decided to provide information on religious minorities even though the Convention did not specifically apply to them, since minorities in Pakistan were officially defined according to their religion. He would attempt to reply to relevant questions by members of the Committee and, in that regard, mentioned the report in which Mr. Amor, the Special Rapporteur on the question of religious intolerance, had analysed the situation of religious minorities in Pakistan and measures taken by the Government (E/CN.4/1997/91).

7. From the standpoint of health care and education, the situation of the minorities, who were concentrated in urban areas, was generally considered to be somewhat better than that of the rest of the population. With a few exceptions, their per capita income was also a little higher. However, he would furnish more detailed statistics on the matter. All Pakistanis had equal access to educational, health and other facilities. The rights of minorities were protected by certain provisions of the Constitution and by specific legislation.

8. In reply to a question regarding paragraph 25 (c) of the report (CERD/C/299/Add.6), he said that the National Commission for Minorities had, inter alia, authorized workers to take a day's leave in order to observe a religious holiday when it fell during the working week. As to the recommendations and implementation of the measures suggested by the various bodies mentioned in paragraphs 26-33 of the report, he intended to obtain more information from the Pakistani authorities and would make it available to members.

9. With regard to the application of Islamic law and punishment, he said that the standard of evidence required under that law was very high and that, to date, there had been no case of Islamic punishment in Pakistan. As to the situation of the Ahmadis, he explained that successive Governments had attempted, through legislative and administrative measures, to put an end to the violence to which that community, for theological reasons, was subjected by other Muslims. On the question of the system of separate electorates (CERD/C/299/Add.6, para. 58, art. 14 (c)), he informed the Committee that religious minorities would, in future, be able to participate directly in elections, as they had done on 3 February 1997, and remained entitled to 10 seats in Parliament.

10. In reply to the request for further information on the ethnic and linguistic composition of the population, he again emphasized that racial and linguistic groups were deeply intermingled and integrated in Pakistan and that any racial or ethnic identification was therefore difficult.

Furthermore, his Government had a vested interest in not introducing racial or ethnic differentiation, since such divisions could be detrimental to the stability and integrity of the country. Language was also an inaccurate guide since members of a single group might speak different languages according to the provinces in which they lived. The Government did not have detailed information on the socio-economic situation of the various ethnic and linguistic groups. There was no great difference in the per capita income of the various provinces, and differences between ethnic or tribal groups had little relevance. If there was discrimination, it was between the rich and the poor; the reduction of income disparities was a priority for Pakistan, as it was for all other developing countries.

11. To sum up, there was no racial discrimination in Pakistan in the sense that the Government in no way condoned or promoted racial discrimination.

12. Turning to the question of the Kalash, he said they were an ethnic and religious minority of only about 3,000 people who lived in the remote mountainous region of Chitral. They were believed to be descendants of the Greek soldiers in the army of Alexander the Great, and their unique culture was threatened by modernization and tourism.

13. With regard to the question of the Afghan refugees, he repeated the information provided in paragraphs 42-46 of the report (CERD/C/299/Add.6), emphasizing that the refugees had all the rights of Pakistanis except citizenship. They had had a great impact on socio-economic conditions in Baluchistan, where they were nevertheless well tolerated.

14. With regard to the Mohajirs, a word of Arab origin which meant "refugee" or "immigrant", he said that that minority, which was originally from India, had migrated to Pakistan after the creation of the Islamic Republic of Pakistan. Most of them had settled in the province of Sindh and its capital, Karachi. Most, but not all, of them belonged to the Mohajir Qaumi Movement (MQM), which was dedicated to safeguarding the interests of the Mohajir nation. In the recent elections, the MQM had won 12 seats in the National Assembly and was currently the second largest party in Sindh province. It would probably soon form part of a coalition government in that province which would certainly address the problems of quotas and representation that confronted the Mohajirs. Furthermore, the current Pakistani Government had begun an investigation into the allegations of human rights violations committed against the MQM by the former Government and would ensure that the guilty were punished. It had decided in principle to pay 300,000 rupees to the relatives or successors of persons killed in extrajudicial executions.

15. In reply to Mrs. Sadiq Ali's question about the Biharis, he explained that when Bangladesh had been established after its secession from Pakistan, the large Bihari community which had settled in eastern Bangladesh had been the subject of an agreement between the two States concerning voluntary repatriation to Pakistan. However, the two parties had not yet succeeded in obtaining the funds necessary to finance the transfer to Pakistan. It was to be hoped that the efforts made to implement the financial aspect of the agreements would soon meet with success.

16. With regard to the treatment of tribal areas, he emphasized that the ethnic and linguistic composition of those areas, which were inhabited primarily by the Pushtun, was no different from that of the neighbouring areas. The tribal areas were a legacy of the British colonial system and, until recently, had been covered by agreements under which their inhabitants had participated in indirect elections. They had been transferred to Pakistani jurisdiction on condition that those arrangements would continue. However, in the recent elections, the people from those areas had directly elected representatives to the National Assembly through universal suffrage.

17. In reply to requests for additional information, he said that Baluchistan, which was the largest province in Pakistan, was inhabited by three major linguistic groups: the Baluchis, the Pushtun and the Brahavis. However, its inhabitants constituted only 5 per cent of the total population. The coastal region was inhabited by the Makranis, who were said to be of African origin. They were fishermen and had never lodged a complaint of racial or ethnic discrimination with the Ministry of Human Rights or the courts.

18. He was pleased to note that some members of the Committee considered that Pakistani legislation under the Convention was better than that of other countries in the region. In reply to the Committee's comments regarding the inadequacy of measures taken in Pakistan to ensure implementation of articles 4 and 6 of the Convention, he said that his country considered that the provisions of the Constitution and the Penal Code were sufficient to guarantee implementation of the provisions of article 4. However, he promised to convey the Committee's views on that matter to his Government.

19. Turning to the question of the low level of literacy, he said that the new Government planned actively to pursue the action programme described in paragraph 51 of the report. Similarly, the rural health facilities mentioned in that paragraph had been completed or were still under construction.

20. Contrary to what one member of the Committee might believe, Sindhi was not the only official language in Sindh; Urdu and English were also official languages in that province. He denied that anyone had been refused employment because he was unable to speak Urdu or Sindhi; the quotas had been introduced in order to speed up the integration of residents of somewhat backward rural areas of Sindh. He also denied that there were 20 million bonded labourers in Pakistan; that figure, which had been quoted by an NGO with ulterior motives, was mathematically impossible, given the size of the population of Pakistan. All Pakistanis, without exception, had the right to vote.

21. In reply to the question why the word "caste" was mentioned in the Constitution, he explained that, because of the existence of a Hindu minority, it had been necessary to include in the Constitution a number of provisions guaranteeing equal treatment to all members of that community.

22. With regard to consideration of complaints of human rights violations, he acknowledged the existence of a dual system in Pakistan, since the Ministry of Human Rights took administrative decisions while the courts took judicial decisions. There was also an independent human rights commission which

carried out very important and effective work in consultation with the Government. He also recognized that there was a certain dualism in the legal system since, in Pakistan, common-law and shariah courts had equal authority.

23. He promised to convey to his Government the comments made by members of the Committee concerning ratification of the amendment on the funding of the Committee and the dissemination of its reports.

24. Mr. SHERIFIS welcomed the quality of the additional information provided orally by the Pakistani delegation. He hoped that a more regular dialogue than in the past would be established between Pakistan and the Committee.

25. Mr. WOLFRUM said he, too, appreciated the quality of the information provided by the delegation of Pakistan, although he regretted that that information had not been included in the written report. He hoped that Pakistan's next report would include more information on the federally-administered tribal areas and on the population of the border regions. While he acknowledged the legitimacy of Pakistan's frequently-stated wish not to emphasize ethnic difference out of a desire to preserve national harmony, he nevertheless reminded the delegation that it was essential for the Committee to have precise information on the various ethnic, linguistic and religious groups, communities and minorities in order to be able properly to verify implementation of the Convention. He was pleased that the Pakistani delegation was, in fact, in the process of making that possible.

26. Mr. GARVALOV (Country Rapporteur) thanked the Pakistani delegation for the extensive information it had provided and for its willingness to enter into dialogue with the Committee.

27. He pointed out that while the word "minority" did not appear in the Convention, it did include references to ethnic or racial groups. The Committee had always been interested in minorities and, when necessary, requested States parties to provide information on the ethnic composition of their population and the ethnic origins of various groups and minorities. That was, therefore, a well-established practice which met a specific need.

28. He fully understood Mr. Akram's statement that it was difficult to make an ethnic distinction between the various population groups and that the question of ethnic difference might be used to undermine the stability of the country. The Committee must consider the question how far it should go in requiring States parties to provide detailed information on the country's ethnic composition at the risk of undermining not only the stability of the State but also the integrity of the population, and whether it should not acknowledge that there were sometimes higher priorities.

29. His reference to 20 million bonded labourers had been based on an NGO report which mentioned a petition submitted to the Supreme Court on behalf of such workers. He had not been voicing a criticism, but had merely asked whether a solution had been found. He had always been careful to use the word "allegation" when necessary. He hoped that the State party would provide detailed information concerning implementation of articles 4 and 6 of the

Convention. Finally, he noted with great satisfaction that the Government had decided to restore the right of religious minorities to participate directly in elections.

30. Mr. AKRAM (Pakistan) assured Mr. Garvalov that he had not misinterpreted his remarks but had merely criticized his sources. He pointed out to Mr. Wolfrum that the situation in the northern border area was a complex one and formed part of the dispute concerning Jammu and Kashmir. The Government would give serious consideration to participation of that province in a referendum if the parties concerned agreed to hold one.

31. The CHAIRMAN said that the drafters of the Convention had been unable to foresee all the problems which might arise from its implementation. Those problems concerned both the Committee and States parties. Consideration of the report of Pakistan had enabled some progress to be made in defining areas of responsibility. He thanked the Pakistani delegation for its contribution to the dialogue and looked forward to receiving the country's next report as soon as possible. The Committee had thus concluded its consideration of the tenth to fourteenth periodic reports of Pakistan.

32. The delegation of Pakistan withdrew.

ORGANIZATIONAL AND OTHER MATTERS (agenda item 3) (continued)

33. The CHAIRMAN announced that a briefing with an NGO was scheduled for 2.30 p.m., prior to presentation of the report of Belgium.

34. Mr. ABOUL-NASR said that that new procedure whereby an NGO organized a briefing prior to consideration of a State party report raised a number of questions. He asked which NGO was involved and expressed concern that the meeting might be politically motivated.

35. The CHAIRMAN said that while he understood that concern, such briefings had taken place in the past. He did not know the name of the NGO in question.

36. Mr. ABOUL-NASR said he was not opposed to the holding of such briefings but saw no reason for the Committee to limit itself to a single source of information, about which, moreover, nothing was known. It was common knowledge that while many NGOs did excellent work, some of them were politicized. He took the opportunity to criticize the documentation placed by the secretariat in members' files; it was often incomplete and biased and was liable to influence the discussion. The question was a very important one since it affected the impartiality of the members of the Committee. Similarly, the list of invited participants and of the documents submitted to the Seminar to Assess the Implementation of the Convention, held in September 1996, was particularly shocking. Who, for example, had decided to invite a rabbi to make a statement? And why had the Anti-Defamation League presented two papers at that seminar? It was important to ensure a more balanced representation of all points of view.

37. The CHAIRMAN said the Committee would discuss the question of invitations under the agenda item concerning the Third Decade.

38. Mr. DIACONU (Country Rapporteur for Belgium) explained that he had been asked by the NGO in question - the Belgian Human Rights League, about which he knew nothing - to announce that briefing, which he had done with considerable misgivings. The members of the Committee were under absolutely no obligation to attend. It would be better for the secretariat, rather than members, to make such announcements since the members must preserve their independence also with regard to NGOs. As to documentation, he suggested that the secretariat should provide members with a list of all the documents at its disposal, without placing them in members' files. In that way, each member would be able to consult the documents of his choice.

39. Mr. de GOUTTES said he fully understood the concern for impartiality and independence expressed by Mr. Aboul-Nasr and found Mr. Diaconu's suggestions in that regard interesting. However, it was important that the principle on which the Committee's decision on information sources was based should not be called into question: the Committee must be able to exercise its right to consult the NGOs as sources of information. He was particularly grateful to the Anti-Racist Information Service (ARIS) and other NGOs that provided him with information which, in some cases, he would have neither the time nor the opportunity to locate on his own.

40. Mr. WOLFRUM said it was unfortunate that the current debate would require a further postponement of the discussion on Yugoslavia or Rwanda. In his view, members should have access to all sources of information and should be informed of their existence. Each of them would then be free to decide whether to use a given source. The secretariat should continue to provide the Committee with the documents at its disposal.

41. Mr. LECHUGA HEVIA felt that the question of NGOs should be considered in depth. Of course, each member was free to consult the information sources of his choice, but the secretariat should not provide information selectively since, in so doing, it in a sense gave its blessing to the NGOs whose reports it transmitted without knowing the interests which they might serve.

42. Mr. van BOVEN emphasized that the members of the Committee were all independent experts and should trust each other's opinions or sources of information. In fact, he found it encouraging that States parties generally took seriously, and replied to, the information from other sources submitted to them by the experts. In that regard, it was important that the sources used should always be mentioned so that they could, if necessary, be verified or challenged. The various Secretary-Generals of the United Nations had always attached great importance to the role of NGOs as information sources; the Committee would lose credibility if it did not maintain relations with the broader section of society represented by NGOs, and indeed not only the best-known international NGOs.

43. Mr. ABOUL-NASR considered that Committee members should have access to all information they needed. He wondered whether the sources of information provided by the secretariat, whether it be Amnesty International - which a British court had considered to be a political organization - or the United States State Department, were impartial. All of them were critical of Iraq. Other documents, which dealt with the threat to the right to life of the Iraqi population posed by the economic sanctions adopted by the Security

Council, had not been communicated to the Committee. He therefore thought the Committee should be provided with information that equitably reflected all points of view.

44. Mr. GARVALOV said, by way of example, that in analysing the situation in Pakistan, he had used not only official information but also information provided by United Nations agencies and NGOs. Personally, he welcomed the efforts of ARIS and supported Mr. Aboul-Nasr's point of view. The question of human rights could be considered from another angle, that of the people living in the countries in question. It must be recognized that human rights had different meanings in different parts of the world.

45. Mr. SHAHI said he too agreed with Mr. Aboul-Nasr, particularly as, in the case of Iraq, the press had for years had been reporting that Iraqi children were suffering from malnutrition as a result of the sanctions. The secretariat should therefore provide a variety of information sources.

46. Mr. RECHETOV said he too concurred with Mr. Aboul-Nasr. The Committee should have access to all available information. While the impartiality of some organizations could be called into question, others, such as Amnesty International or ARIS, had amply demonstrated their commitment to human rights. He noted that States generally took into account information from NGOs mentioned by the Committee. He did not think that the Committee's meeting room should be used for meetings with an NGO.

47. Mr. WOLFRUM considered that all members of the Committee needed as much information as possible, and explained that he had prepared his report on Iraq before the secretariat had transmitted the list that had been mentioned.

48. Mr. YUTZIS suggested that in the future the question of information sources should be included in the agenda since it merited the Committee's full attention. While the Committee was not always in a position to verify the information provided by NGOs, it would be a good idea to increase, rather than restrict, information sources. He pointed out that the Vienna Conference on Human Rights had emphasized that NGOs made an important contribution to the United Nations system in that regard.

49. Mrs. SADIQ ALI said that, like Mr. Shahi, she thought information sources should be as numerous and diversified as possible. In that regard, ARIS should play a major role.

50. Ms. ZOU Deci said that some NGOs were undeniably politically motivated. She wondered whether the United Nations would provide any NGO with a meeting room, even if it knew nothing about that organization. In her view, only NGOs known to the Committee should be granted such facilities. While she thought the Committee should have access to all types of information, she had noticed that the information provided by the organizations included in certain secretariat lists was sometimes biased. She also noted that some third-world countries were not in a position to provide complete information and that information concerning them was provided by Western countries. She therefore hoped that the Committee would have access to information furnished by third-world NGOs.

51. The CHAIRMAN said it was not the Committee's job to assign meeting rooms. It appeared that the NGO in question had consultative status with the Commission on Human Rights.

52. Mr. SHERIFIS considered that the Committee should rely both on the information provided by the organizations on the secretariat list and on ARIS. He was strongly in favour of multiple information sources. In that regard, he would have appreciated receiving information from various regional bodies, whether it be the Organization of American States, the Council of Europe or the League of Arab States.

The meeting rose at 1 p.m.